

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMES TRACEY CORGAN,

Plaintiff,

vs.

NEVADA DEPARTMENT OF PUBLIC
 SAFETY INVESTIGATION DIVISION, et al.,

Defendants.

3:14-cv-00692-RCJ-WGC

ORDER

re: Doc # 30

Before the court is the Motion to Quash Service of Process filed by Defendant “State of Nevada, Department of Public Safety (DPS), Investigation Division (NDI)” (herein DPS). (Doc. # 30.¹) No response to the motion was filed.

DPS argues service on that state agency was improperly effected under Federal and State law. First, Defendant argues that putative service on DPS was effected, per Defendant’s motion, by serving named Defendant Brad Warwick. (Doc. # 25). While service may have been valid as to Defendant Warwick, DPS contends that under Fed. R. Civ. P. 4(j)(2)(A), for service to be valid as to the state agency, the agency’s chief executive officer had to be served. According to Defendant’s motion, the chief of DHS was not served and thus under Rule 4(j)(2)(A), service was not completed.

Defendant DHS also argues that service was ineffective under Rule 4(j)(2)(B), which provides that service may also be effected in accordance with state law for service on an agency. Defendant cites Nev. Rev. Stat. 41.031(2) which provides that service is to be made upon the Attorney General and also the chief of the identified state agency. Defendant DHS represents that neither the Attorney General nor

¹ Refers to court’s docket number.

1 the agency head was served and thus Rule 4(j)(2)(B) is also not satisfied.

2 Defendant's motion presents grounds for quashing service of Plaintiff's complaint upon DHS.
3 Additionally, Local Rule 7-2(d) provides that the failure of an opposing party to file points and
4 authorities in response to any motion shall constitute a consent to the granting of the motion. As noted
5 above, Plaintiff has not opposed Defendant's motion.

6 Defendant's Motion to Quash (Doc. # 30) is **GRANTED** and service is quashed as to Defendant
7 Department of Public Safety (DPS), Investigation Division (NDI).

8 **IT IS SO ORDERED.**

9 DATED: May 19, 2015.

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11 WILLIAM G. COBB
12 UNITED STATES MAGISTRATE JUDGE
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